IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. No: 1167 of 2007

Date of decision: 9.8.2007

Mohan Lal **Petitioner**

Versus

H.R.T.C. and others **Respondents**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioner: Ms. Priyanka Verma, Advocate

For the Respondents:Mr. H.S.Rawat, Advocate

Per Deepak Gupta, J. (Oral)

This petition discloses an unfortunate saga where the petitioner who had filed the original application before the learned H.P. State Administrative Tribunal in the year 1997 has been unable to get relief because his petitions have been dismissed for non appearance of his counsel.

From the facts which we can glean from the documents filed with the writ petition, it is apparent that the petitioner challenged the order of his compulsory

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

retirement by filing Original Application No. 127 of 1997 before the learned H.P.State Administrative Tribunal. In the said original application he also made an alternative prayer that even if this order of compulsory retirement is upheld, he should be granted pension. This original application was admittedly dismissed for non prosecution on 25th June, 1997. Thereafter an application was filed for restoration of this original application, but that also appears to have been dismissed in default in the year 1997 itself. This order attained finality and was not challenged in any court.

The petitioner, instead of filing an application for setting aside the order of dismissal in default of the application and the original application, filed a fresh original application being O.A. No. 316 of 2006 after a gap of 9 years. This original application was also dismissed for non appearance of the counsel on 10.10.2006, but thereafter restored. On 12.1.2007 the learned tribunal dismissed the original application on the ground that since the original application No. 127 of 1997 filed by the petitioner had already been dismissed for non prosecution, he could not be permitted to file a fresh petition qua the same cause of action. The review

petition No. 1 of 2007 filed against this was also dismissed on 12th March, 2007.

Learned counsel for the petitioner has urged that the petitioner should not be punished for no fault of his. We are not in agreement with this contention. The learned tribunal had no option, but to dismiss the original application since the earlier proceedings had attained finality. No fresh application could have been filed for the same relief which had been claimed in the earlier petition and which had been dismissed earlier for non prosecution. No relief can be granted to the petitioner. The writ petition is dismissed.

(Deepak Gupta), J.

August 9, 2007(K) (V. K. Ahuja), J.